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SEATTLE WA 98133

In re Application of: Steven C. ROBERTSON
Application No. 09/324,601
Filed: June 2, 1999
For: SYSTEM AND METHOD FOR
PROVIDING ELECTRONIC MULTI-
MERCHANT GIFT CERTIFICATE &
CONTRIBUTION BROKERING
SERVICES OVER A DISTRIBUTED
NETWORK

**DECISION ON PETITION
TO REOPEN PROSECUTION
AFTER BOARD DECISION
UNDER 37 CFR 1.198**

This is in response to the petition filed on October 19, 2007 under 37 CFR 1.198 requesting the reopening of prosecution after a decision by the Board of Patent Appeals and Interferences (BPAI).

A review of the file reveals that the BPAI mailed a "Decision on Appeal" (hereafter: "Decision") on August 20, 2007. The Decision sustained the rejection of claims 23-37 under 35 USC 102(e) as anticipated by Gillin. No claims stand allowed. In response to the Decision, Appellant filed a "Request for Rehearing" (hereafter: "Request") as well as the instant petition under 37 CFR 1.198. The Request and the instant petition were filed, concurrently, on October 19, 2007.

37 CFR 1.198 states:


"When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown." (emphasis added)

Inasmuch as the Request awaits consideration by the BPAI, the Decision is not considered to have become final for judicial review--and, a petition under 37 CFR 1.198 is considered premature until such time.

The petition is **DISMISSED as premature**.

Appellant is advised that a petition under 37 CFR 1.198 may be resubmitted, without prejudice, following a decision on the Request for Rehearing by the BPAI.

Telephone inquiries should be directed to Jeffrey A. Smith, Supervisory Patent Examiner, at (571) 272-6763.



Wynn Coggins, Director

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WC/jas: 11/26/2007